

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

FRANK NEWSOME,

Plaintiff,

:

Case Nos. 3:99-cv-473, 3:00-cv-372

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

JERRY ERWIN, et al.,

Defendant.

REPORT AND RECOMMENDATIONS

These cases are before the Court on Plaintiff's Motion to Reopen (Doc. No. 116 in Case 99-473, Doc. No. 48 in Case 00-372). The Motion should be denied for at least the following reasons:

1. The Motion does not contain a certificate of service on the other parties to these cases.
2. The Motion contains allegations against a number of people who were not parties to these cases.
3. The Motion is grossly untimely. A motion for relief from judgment under Fed. R. Civ. P. 60 must be made within one year of the final judgment. In Case No. 3:99-cv-473, final judgment was entered almost ten years ago, on February 11, 2002. In Case No. 3:00-cv-372, final judgment was entered six days earlier, on February 5, 2002.
4. Inclusion of new allegations occurring within the last several months in a motion to reopen a long-closed case is a transparent attempt of Plaintiff to gain access to this Court without paying the required filing fee, obtaining representation by an attorney, or obtaining the advance approval of the Chief Judge.

Therefore the Motion should be denied.

January 4, 2012.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).